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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/458,917	12/10/1999	MARTIN E. NEWELL	07844-353001	9475
21876	7590	03/05/2004		
FISH & RICHARDSON P.C. 3300 DAIN RAUSCHER PLAZA MINNEAPOLIS, MN 55402			EXAMINER SAJOUS, WESNER	
			ART UNIT 2676	PAPER NUMBER 22
DATE MAILED: 03/05/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/458,917

Applicant(s)

NEWELL ET AL.

Examiner

Wesner Sajous

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17, 23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17, 23 and 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### **Remark**

This communication is responsive to the Request For Continued Examination (RCE) of 2/9/2004, and the amendment and response filed on January 8, 2004. By this communication, claims 1-17, and 23-24 are currently pending.

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/9/2004 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-17, and 23-24 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

3. Claims 1, 16-17 and 23-24 are objected to because it is unclear as to what exactly the Applicant is trying to encompass by "positions for canonicals locations". In evaluating the application, it appears that the "canonicals locations" is meant by the

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Applicant to represent the "control points". If this is so, it is unclear how it is possible for these points to have "behaviors". Further, in the claim, it is recited that the "re-determined control points having a path that is not dependent on any user-specified information other than the user-specified change of position". By this limitation, it is unclear as to why the path of the control points is independent of the user-specified information while it is dependent on the user-specified change in position. In evaluating the claim, it ~~is~~ appears that the user-specified information is substantially equivalent with the user-specified change in position, because "the change in position" could not be effected unless the user inputs an information or attribute identifying the change in position. Clarifications are required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

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4. In claims 1, 16, and 23-24, the limitations “the positions of the canonical locations ... being predetermined to divide the Bezier shape into sections of predefined proportions such that at least one of the canonical locations at least sometimes has two different predefined behaviors... in different sections of the shape”; and “re-determining the control points ..., the Bezier shape that is governed by the re-determined control points having a path that is not dependent on any user-specified information other than the user-specified change in position” constitute new matters that are not supported by the specification as originally filed. The Applicant, in response to this action, is required to amend cancel the new matter features into the claims.

5. Claim 17 recites the limitations “the positions of the canonical locations ... being predetermined to divide the Bezier shape into sections of predefined proportions such that at least one of the canonical locations at least sometimes has two different predefined behaviors... in different sections of the shape”; and “the Bezier shape having a path that is not dependent on any user-specified information other than the user-specified change in position” that constitute new matters that are not supported by the specification as originally filed. The Applicant, in response to this action, is required to amend cancel the new matter features into the claims

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-16, and 23-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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7. Claim 1 recites the limitation "re-determining the control points of the Bezier shape..." in line 13. There is insufficient antecedent basis for this limitation in the claim, because in order for controls points to be re-determined, they must have first been calculated before they could be re-determined. In the claim, only new positions for canonical locations of the Bezier shape have been determined. Clarification is required.

Claims 16, and 23-24 substantially contain the features recited in claim 1; they are, therefore, rejected under the same rationale as claim 1.

Claims 2-15 contain the problem of claim 1, by dependence; they are, therefore, rejected under the same reason as claim 1.

### ***Allowable Subject Matter***

8. Claims 1-17, and 23-24 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action. The lack of an art rejection with this Office action is not an indication of allowable subject matter (i.e., even though the claims are rewritten or amended to overcome the rejection under 35 U.S.C. 112 and objections as discussed above). The disclosure/claimed language is such that it is impractical to conduct a reasonable search of the prior art by the examiner.

### ***Conclusion***

9. The prior art made of record and pertinent to this application are as recited in the

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PTO-892 form.

**Any response to this action should be mailed to:**

Box

Commissioner of Patents and Trademarks  
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or faxed to:

(703) 872-9306, (for formal communications; please mark "EXPEDITED  
PROCEDURE")

Or:

(703) 308-5359 for informal or draft communications, please label "PROPOSED"

or DRAFT")

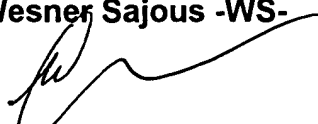
Hand-held delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,

Arlington, VA, 6th floor (receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wesner Sajous whose telephone number is (703) 308-5857. The examiner can also be reached on Mondays thru Thursdays and on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Matthew Bella, can be reached at (703) 308-6829. The fax phone number for this group is (703) 308-6606.

**Wesner Sajous -WS-**



**March 2, 2004**